

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSEPH BANK,

Plaintiff,

- against -

IMDB.COM, INC.

Defendant.

Docket No. 1:17-cv-5240

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Joseph Imdb (“Imdb” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant IMDB.com, Inc., (“Imdb” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American actor, comedian and writer Charlie Murphy, owned and registered by Bank, a New York City based photojournalist. Accordingly, Bank seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Bank is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 61 Berkshire Court, Hillsborough, New Jersey 08844.

6. Upon information and belief, Imdb is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 2021 7<sup>th</sup> Avenue, Seattle, Washington 98121. Upon information and belief, Imdb is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Imdb has operated their twitter page (the “Website”).

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Bank photographed American actor and comedian Charlie Murphy (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Bank is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United State Copyright Office and was given Copyright Registration Number VA 2-038-817.

### **B. Defendant’s Infringing Activities**

10. Upon information and belief, on or about April 12, 2017, Imdb posted the Photograph on their twitter page. See <https://twitter.com/IMDb/status/852227067072716816>. The website prominently featured the Photograph. A true and correct copy of the Twitter post is attached hereto as Exhibit B.

11. The Post received 225 Retweets and 281 likes.

12. Imdb did not license the Photograph from Plaintiff for its Website, nor did Imdb have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST IMDB)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Imdb infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Imdb is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Imdb have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Imdb be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
July 12, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz  
Richard P. Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, NY 11580  
Tel: (516) 233-1660  
RL@LiebowitzLawFirm.com

*Attorneys for Plaintiff Joseph Bank*